

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 23RD JULY 2007 / 1ST SRAVANA 1929

WP(C).No. 22568 of 2007(J)  
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PETITIONER:

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T.K. CHIDANAND,  
S/O. T.K. DAMODHARAN, AGED 43 YEARS,  
WOOD HOUSE,  
B.G. ROAD,  
CHAKKORATHKULAM,  
CALICUT - 11.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENTS:

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1. THE TAHSILDAR,  
KASABA, KOZHIKODE (TASK FORCE),
2. THE DISTRICT COLLECTOR,  
KOZHIKODE.
3. THE DEPUTY COLLECTOR,  
CIVIL STATION, KOZHIKODE.

BY GOVERNMENT PLEADER SRI. I.V. PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/7/07,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. Siri Jagan, J.  
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Dated this, the 23<sup>rd</sup> July, 2007.

J U D G M E N T

The petitioner challenges Ext.P5 notice by which the petitioner has been directed to vacate the properties mentioned therein. The contention of the petitioner is that before issuing Ext.P5, no notice or hearing was granted to the petitioner. According to the petitioner, the property in question belongs absolutely to the petitioner covered by title deeds and, no part of Government land is in possession of the petitioner.

2. I have heard the learned Government pleader also. The learned Government pleader could not satisfy me that Ext.P5 notice was preceded by a show cause notice or a hearing. Ext.P5 does not also contain any reasons as to why the emergency provisions under the Kerala Land Conservancy Act should be invoked. In such circumstances, I am satisfied that Ext.P5 has been issued in violation of the principles of natural justice and the provisions of the Kerala Land Conservancy Act and Rules. However, if Ext.P5 is treated as a show cause notice, I need not quash Ext.P5. Accordingly, I dispose of this writ petition with the following directions.

The 1<sup>st</sup> respondent shall treat Ext.P5 as a show cause notice. The petitioner shall file his objections to Ext.P5 within a period of two

weeks from today. Thereafter, The 1<sup>st</sup> respondent shall afford an opportunity of being heard to the petitioner, which shall include an opportunity to adduce evidence also. Considering the objections and evidence adduced by the petitioner, the 1<sup>st</sup> respondent shall pass a speaking order and communicate the same to the petitioner. Till after seven days of communication of the order so passed to the petitioner, the petitioner shall not be evicted from the property in question.

S. SIRI JAGAN, JUDGE.

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